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June 18, 2006

Hon. James Orenstein
United States Magistrate Judge
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

**re: Pizzitola v. City of New York Fire Department
Case No.: 04-cv-04801**

Dear Magistrate Orenstein:

This letter is submitted on behalf of the Plaintiff in this action, Marianne Pizzitola (hereinafter “Pizzitola”) and concerns the failure of a duly served third party, Diane Bodoni (hereinafter “Bodoni”) to comply with a deposition subpoena as well as her disobedience of an Order from this Court dated April 25, 2006 requiring her appearance at the deposition (hereinafter the “Order”). A copy of the subpoena and the affidavit reflecting service are attached hereto as Exhibits A and B, respectively. A copy of my cover letter to Bodoni, the Order and the Affidavit reflecting service are attached as Exhibits C, D and E, respectively.

Although the subpoena was served in hand on March 08, 2006 directing her to appear at my offices at 1225 Franklin Avenue - Suite 400, Garden City, NY 11530 on March 20, 2006 at 10:00 a.m., Bodoni failed to appear, object to appearing or contact me or my office in any manner.

After moving this Court to compel her appearance for a deposition, a copy of the Order as well as a cover letter directing her to appear on June 06, 2006 at 2:00 p.m. was served upon her in hand on May 30, 2006.

At 2:00 p.m. on June 06, 2006, Phyllis Calistro, counsel for the Defendants in this matter appeared at my office together with a Court Reporter. Bodoni did not appear in my office today, nor did she contact me in any way to object to her appearance today or explain her absence.

Accordingly, Pizzitola requests that this Court enter an Order holding Bodoni in contempt and issue appropriate sanctions against her for her blatant disobedience of your Honor's Order.

In addition, I would respectfully request that the Court order Bodoni to show cause why she should not be required to pay Pizzitola's attorney's fees for having to make this request, my prior request compelling her appearance as well as the time and expense associated with the two (2) depositions which Bodoni failed to attend in the amount of \$1000.00.

Thank you for your courtesy in this matter.

Respectfully submitted,

/s/ Matthew J. Conroy

Matthew J. Conroy

Cc: Phyllis Calistro, Corporation Counsel